

Express Mail Mailing Label No.:
ED 007862549 US

December 19, 2005

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: *Petitioner's Motion to Suspend Cancellation No. 92044628*

To Whom it May Concern:

Enclosed for filing please find Petitioner Johnny Ray Company, Inc.'s Motion to Suspend Pending Resolution of Bankruptcy Proceeding and Memorandum in Support Thereof. If you have any questions or need further information, please contact me at your convenience.

Very truly yours,



David Mastbaum

Enclosure

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Of Counsel, Arthur H. Travers



12-19-2005

U.S. Patent & TMO/TM Mail Rpt. #22

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Johnny Ray Company, Inc.,)	
)	
Petitioner,)	
)	Cancellation No. 92044628
v.)	
)	Registration Nos. 2865908, 2863952
Funky Munky, Inc.,)	
)	Express Mail Mailing Label No.:
Registrant.)	ED 007862549 US

**PETITIONER JOHNNY RAY COMPANY, INC.'S MOTION TO SUSPEND PENDING
RESOLUTION OF BANKRUPTCY PROCEEDING**

Pursuant to 37 C.F.R. section 2.117, Petitioner Johnny Ray Company, Inc. respectfully requests that the Board suspend the above-referenced proceeding pending resolution of the bankruptcy petition filed by Ms. Lara McDermott, former fifty percent (50%) owner of Petitioner. As more fully set forth below, due to the complicated issues raised by Ms. McDermott's personal bankruptcy petition, including issues regarding ownership interests in Petitioner and its marks, good cause for suspension is present here. Petitioner's counsel has advised Registrant's counsel of this Motion. Registrant's counsel did not take a position on this Motion.

MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION TO SUSPEND

Ms. Lara McDermott, along with her former husband, Ray McDermott, owned and operated Johnny Ray Company, Inc. until the dissolution of their marriage in December 2004. Matters concerning ownership of Petitioner were made part of the dissolution decree. In accordance with the dissolution decree, Ms. McDermott operated Petitioner and served as its President. On October 16, 2005, Ms. McDermott filed a personal bankruptcy petition pursuant

to Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Colorado (Case No. 05-51944-MER). Although Ms. McDermott filed for bankruptcy as an individual, as owner of fifty percent (50%) of Petitioner (Ray McDermott owns the other fifty percent (50%)), Ms. McDermott's interest in Petitioner are part of the bankruptcy estate and subject to the determinations of the Trustee. The Bankruptcy Trustee, Tom H. Connolly, and Ray McDermott are attempting to resolve the matter of ownership of Petitioner's marks at issues in this proceeding.

The Board may suspend a proceeding upon motion for good cause shown. (37 C.F.R. § 2.117(c).) The bankruptcy here, and the complications presented concerning the ownership of Petitioner and its marks, bear directly on the issues presented to the Board and also satisfy the good cause requirement. For example, the determination of the proper ownership of Petitioner and its marks, the Trustee's determination regarding his interest in pursuing this proceeding should it be a potential part owner of Petitioner, and the resolution of Ms. McDermott's bankruptcy petition generally are critical to determining who is responsible for making decisions for the Petitioner. Suspension is also necessary here in order to prevent an imminent request to withdraw by counsel for Petitioner. Indeed, Petitioner seeks this suspension in order to avoid foreseeable prejudice to its rights, as it is currently awaiting the Trustee's determination of the proper parties in interest to, and the future of, this proceeding.

CONCLUSION

For all of the foregoing reasons, Petitioner respectfully requests that the Board suspend this proceeding pending the resolution of certain issues concerning ownership of Petitioner and ownership of Petitioner's marks in Ms. McDermott's bankruptcy proceeding. Should such

suspension be granted, Petitioner promptly will notify the Board regarding the resolution of the bankruptcy proceeding so that this matter may proceed promptly to resolution.

Dated: December 19, 2005

By: 

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Attorney for Petitioner

CERTIFICATE OF SERVICE


I hereby certify that on the 19th day of December, 2005, a true and correct copy of the foregoing PETITIONER JOHNNY RAY COMPANY, INC.'S MOTION TO SUSPEND PENDING RESOLUTION OF BANKRUPTCY PROCEEDING and Memorandum in Support Thereof was deposited in the United States mail, postage prepaid, addressed to the following:

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